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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,670	03/30/2004	John William Crisman Anderson	AN097/000AN	3565
24350	7590	07/13/2005	EXAMINER	
STITES & HARBISON, PLLC			PHAM, LAM P	
400 W MARKET ST				
SUITE 1800			ART UNIT	PAPER NUMBER
LOUISVILLE, KY 40202-3352			2636	

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/812,670	ANDERSON, JOHN WILLIAM CRISMAN
	Examiner Lam P. Pham	Art Unit 2636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 15 April 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 15-19 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 15-17 is/are rejected.
- 7) Claim(s) 18-19 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 15-17 rejected under 35 U.S.C. 103(a) as being unpatentable over Cerkendall (US 6346885) in view of McCarley et al. (US 5794625).

Regards claim 15, Cerkendall discloses a method and apparatus for livestock data collection and management for monitoring body temperatures in a plurality of herd animals for detection of fever comprising the steps of:

- a) providing each animal with a radio frequency identification transponder (bolus transponder 32) having a temperature sensing capability;
- b) providing at least one radio frequency receiver and transmitter (reader 30) for transmitting radio frequency signals to said transponders and receiving radio frequency signals therefrom;
- c) providing a microcontroller (host computer 10) having a memory for storing a plurality of temperature readings from all of said herd animals from digital thermometers as seen at least in Figures 2-6, 10, 12; col. 6, lines 53-67; col. 7, lines 1-48; col. 17; lines 55-67; col. 18, lines 1-67; col. 19, lines 24.

However, Cerkendall fails to disclose the transponder senses an animal temperature and transmitting temperature data to the transceiver (reader) and the

microcontroller providing an alarm indication when a temperature reading from any of said herd animals is above a predetermined maximum indicating a fever.

McCarley disclose a monitoring system for animals includes a plurality of transmitter units (10), each includes a temperature sensor for sensing a temperature signal and transmitting a digital temperature signal to a base unit having microcontroller for decoding the data signal containing the temperature value for display and the base station compares the received temperature value to a predetermined range of temperature values and initiates an alarm condition if the received temperature exceed the predetermined range as seen in Figures 1-4; col. 2, lines 38-67; col. 3, lines 1-67; col. 4, lines 1-13.

In view of McCarley teaching, it would have been obvious to one of ordinary skill in the art to make use of the temperature sensing capability of the transponder for measuring temperature of all of said herd animals and transmitting the temperature data to the reader and from the reader to the microcontroller for storing and indicating when a temperature reading from any of said herd animals is above a predetermined maximum or range or value to alert a monitoring person of sick animal.

Regards claim 16, Cerkendall and McCarley combined teaching (claim 15) disclose a system for monitoring body temperatures in a plurality of herd animals, said system comprising:

a plurality of radio frequency identification transponders (32), each said transponder having a temperature sensor for sensing animal temperature, each herd animal provided with one of said radio frequency identification transponders, each

transponder positioned such that said temperature sensor is in a viable sensing location for sensing the animal's temperature;

a reader/interrogator (30) for:

transmitting radio frequency signals to said transponders;

receiving radio frequency signals from said transponders, said received radio frequency signals containing animal temperature data from said temperature sensor; and

demodulating said received radio frequency signals into animal temperature data; and

a microcontroller (10) in communication with said reader/interrogator, said microcontroller for processing said animal temperature data and providing an alarm indication when temperature data for any herd animal is above a predetermined value as seen in Figures 2-6, 10, 12; col. 6, lines 53-67; col. 7, lines 1-48; col. 17, lines 55-67; col. 18, lines 1-67; col. 19, lines 24 of Curkendall and in Figures 1-4; col. 2, lines 38-67; col. 3, lines 1-67; col. 4, lines 1-1-13 of McCarley et al.

Regards claim 17, Curkendall and McCarley disclose the memory for storing animal temperature data. However, they fail to disclose the microcontroller further determine a baseline temperature for each animal by averaging said temperature data over time.

However, one of ordinary skilled in the art would recognize that determining a baseline temperature for each animal without averaging the temperature data over time would result in false alarms due to animal body fluctuation from many factors including

stress, ambient temperature, activity etc. Thus, it would have been obvious to one of ordinary skilled in the art to determine a base temperature value, range over time in order to reduce false alarms.

Allowable Subject Matter

3. Claims 18-19 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lam P. Pham whose telephone number is 571-272-2977. The examiner can normally be reached on 9AM-6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery A. Hofsass can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 or 571-273-8300 **after July 15**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lam Pham
July 11, 2005.



JEFFERY HOFSSASS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600